

REMARKS**Interview Summary**

Applicants' Agent, Susan Kelly, would like to thank the Examiner for conducting the telephonic interview of September 12, 2006, and for her helpful comments. During the interview the written description rejections of record, based on indefiniteness of claim language and lack of antecedent basis, were discussed.

With regard to the rejection of Claim 1 for being indefinite, the Examiner agreed that the introduction of the list of substituents from the specification page 16 line 24 through page 17 line 14 into Claim 1 would be acceptable.

Applicant's agent agreed to make similar amendments to claims, such as, Claim 20.

With regard to the rejection of Claim 8 for lack of antecedent basis of the term "aralkyl", the Examiner suggested that Claim 1 be amended to include the term "aralkyl".

Applicant's agent agreed make this amendment and to indicate the support for such an amendment in the specification.

Claim Amendments

Claims 1, 17 and 20 have been amended to define the list of substituents as discussed below. Claim 1 has been further amended to include where R₁ is aralkyl as discussed below.

Claims 18 and 19 have been amended to correct typographical errors.

No new matter has been added as a result of these amendments.

Claim Rejection Under 35 U.S.C. § 112 second paragraph

The Examiner rejects Claims 1 and 7-11 under 35 U.S.C. § 112 second paragraph as the terms substituted and unsubstituted are not limited. Applicants have amended Claim 1 to include a list of substituents. Support for this amendment can be found in the specification page 16 line 22 to page 17 line 14. No new matter is added as a result of this amendment.

Applicants have also amended Claims 17 and 20 to include a list of substituents. Support for these amendments can be found in the specification page 16 line 22 to page 17 line 14. No new matter is added as a result of these amendments.

The Examiner further rejects Claim 8 stating that there is no antecedent basis for the term aralkyl in the definition of R₁ in Claim 8.

Applicant's respectfully disagree, page 16 line 22 to page 17 line14 of the specification states (emphasis added):

Suitable substituents for an alkyl group, for a carbon atom on an aryl group or a non-aromatic heterocyclic group are those which do not substantially interfere with the ability of the compound to inhibit transplant rejection. Examples of **suitable substituents for a carbon atom of an aryl, alkyl or a carbon atom of a non-aromatic heterocyclic group** include -OH, halogen (-Br, -Cl, -I and -F), R, -CH₂R, -OCH₂R, -CH₂OC(O)R, -OR, -O-COR, -COR, -CN, -NO₂, -COOH, -SO₃H, -NH₂, -NHR, -N(R)₂, -COOR, -CHO, -CONH₂, -CONHR, -CON(R)₂, -NHCOR, -NRCOR, -NHCONH₂, -NHCONRH, -NHCON(R)₂, -NRCONH₂, -NRCONRH, -NRCON(R)₂, -C(=NH)-NH₂, -C(=NH)-NHR, -C(=NH)-N(R)₂, -C(=NR)-NH₂, -C(=NR)-NHR, -C(=NR)-N(R)₂, -NH-C(=NH)-NH₂, -NH-C(=NH)-NHR, -NH-C(=NH)-N(R)₂, -NH-C(=NR)-NH₂, -NH-C(=NR)-NHR, -NR-C(=NH)-NHR, -NR-C(=NH)-N(R)₂, -NR-C(=NR)-NH₂, -NR-C(=NR)-NHR, -NR-C(=NR)-N(R)₂, -SO₂NH₂, -SO₂NHR, -SO₂NR₂, -SH, -SO_kR (k is 0, 1 or 2) and -NH-C(=NH)-NH₂. **Each R is independently an alkyl, substituted alkyl, benzyl, substituted benzyl, aryl or substituted aryl group.**

Claim 8 depends from Claim 7 which depends from Claim 1. R₁ is defined in Claim 1 as substituted or unsubstituted alkyl. As can be seen from the definition above, alkyl can be substituted with aryl, which would form an aralkyl group. Therefore there is proper antecedent basis for the term aralkyl in Claim 8.

However, to further prosecution Claim 1 has been amended to include the term “substituted or unsubstituted aralkyl” in the definition of R₁, and the rejection is now moot.

Provisional Claim Rejection under the judicially created doctrine of Double Patenting

The Examiner provisionally rejects Claims 1-20 under the judicially created of double patenting over Claims 1-26 of co-pending Application No. 10/719,055.

As noted by the Examiner, the rejection is a provisional rejection because the claims of co-pending Application No. 10/719,055 have not been patented. Applicants will address the provisional double patenting rejection of Claims 1-20 in the subject application if the corresponding claims of co-pending U.S. Patent Application No. 10/719,055 are allowed or patented before the claims of the subject application.

If this provisional rejection is the only rejection remaining in either the subject application or co-pending Application No. 10/719,055 after entry and consideration of any Amendments, Applicants request that the Examiner withdraw the rejection and permit either the subject application or co-pending Application No. 10/719,055 to issue as a patent, in accordance with U.S. Patent Office procedure (see, M.P.E.P. § 804(I)(B)(1)).

CONCLUSION

In view of the above amendments and remarks, it is believed that all claims are in condition for allowance, and it is respectfully requested that the application be passed to issue. If the Examiner feels that a telephone conference would expedite prosecution of this case, the Examiner is invited to call the undersigned.

Respectfully submitted,

HAMILTON, BROOK, SMITH & REYNOLDS, P.C.

By 
Susan C. Kelly
Registration No. 58,046
Telephone: (978) 341-0036
Facsimile: (978) 341-0136

Concord, MA 01742-9133

Dated:

September 13, 2006